

BEFORE THE
FEDERAL ELECTION COMMISSION

Jerry H. Goldfeder
225 Broadway
New York, NY 10007

Complainant,

v.

Committee on Arrangements for the
2004 Republican National Convention
310 First Street, SE
Washington, DC 20003;

Republican National Committee
310 First Street, SE
Washington, DC 20003; and

Mike Retzer, Treasurer
Republican National Committee &
Committee on Arrangements for the
2004 Republican National Convention
310 First Street, SE
Washington, DC 20003,

Respondents.

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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COMPLAINT

I file this complaint against the Committee on
Arrangements for the 2004 Republican National Convention
("Convention"), the Republican National Committee ("RNC"),
and the treasurer of both committees, Mike Retzer
(collectively, "Respondents") for violations of the

reporting and contribution provision of the Federal Election Campaign Act, as described below. The facts and circumstances are true to the best of my knowledge and belief, which is based upon knowledge and information derived from reports published in the media.¹

I. FACTS

The 2004 Republican National Convention was held in New York City from August 29 to September 2, 2004 (the "Convention"). During the Convention, the Republican Party planned and held a series of events for top contributors and fundraisers to the RNC and Bush-Cheney 2004. These events included meals at prestigious restaurants such as Le Cirque and cocktail parties at attractive venues such as the New York Stock Exchange. To pay for these events, the Republican Party charged convention attendees a "Convention Fee" of up to \$4,500 a person. The RNC commissioned a private company, LogiCom Project Management ("LogiCom"), to collect the Fees. The RNC apparently determined that the Convention Fees did not constitute contributions because

¹ See, e.g., Mario F. Cattabiani, *Corporations Dig Deep to Fete the GOP's Elite*, PHILA. INQUIRER, Sept. 1, 2004; Glen Justice, *Republican Donors are Paying to Play at the Convention*, NEW YORK TIMES, Aug. 8, 2004.

the Fees were collected by a private company. Respondents were wrong.

II. LEGAL ARGUMENT

The Convention Fees that Respondents charged high-level contributors at the Convention constitute contributions under the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431 et seq. (2004) ("the Act"). As such, they are illegal, excessive, and unreported contributions.

A. The Entire Amount of the "Convention Fee" is a Contribution to the RNC and the Convention

11 C.F.R. § 100.53 (2004) provides: "The entire amount paid to attend a fundraiser or political event and the entire amount paid as the purchase price for a fundraising item sold by a political committee is a contribution." The Commission has, time and again, resisted attempts to separate the costs of fundraising from the amount of the contribution, and has insisted that the entire amount paid by contributors is a contribution. See, e.g., Advisory Opinion 1990-01 (Mar. 1, 1990); Advisory Opinion 1986-2 (Feb. 21, 1986).

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The fact that the Respondents attempted to disassociate the costs of the events from the "remaining" monies received by the RNC and the Bush-Cheney campaign is to no avail. They may not do so. A fundraiser cannot request that contributors write two checks --one to a political committee and one directly to a caterer of the committee's event-- to avoid having the entire payment for the fundraising event properly treated as one contribution to the committee. Here, Respondents attempted to do just that, with the two payments being separated in time as well.

Respondents may claim that the payments to LogiCom should not be linked to the contributions to the RNC and the Bush-Cheney campaign: they might suggest that the payments are equivalent to contributors paying for their own hotel and travel arrangements while attending conventions and fundraising events. However, there are two crucial facts that expose the purported separation as false.

First, the events paid for by the Convention Fee were not open to the general public. Not just anyone could log on to the LogiCom website, pay the Convention Fee and

attend the series of events planned and held by the Respondents. The only individuals who were permitted to pay the Fee and attend the events were those high-dollar contributors and fundraisers that Respondents wished to reward. The events were meant to serve as an incentive to contribute, and to thank the contributors. In this regard, the events are identical to the purpose served by other fundraising events. The only difference (without a distinction) is that, in this case, two payments were made instead of one.

Second, *Respondents planned and held the events.* These events were completely managed by Respondents, from the venues, to the time, to the guest list. This is not a case whereby a political organization refers contributors to an outside vendor who may be able to assist them. This situation is instead virtually identical to one in which a committee uses a commercial caterer to provide food for a fundraising event. The fact that the money was received and spent by a commercial vendor instead of the RNC or the Convention itself is of no consequence. Political committees commonly use commercial vendors for both soliciting contributions and planning and executing fundraising events. The Respondents have merely used one

commercial vendor instead of two, to both solicit contributions and to plan the fundraising events using the proceeds.

Thus, the "two" payments are inextricably linked.

B. The Contributions Are Illegal, Excessive and Unreported

The Convention Fees constitute a contribution to both the RNC and the Convention. The events were an incentive to give to the RNC and the Bush-Cheney campaign. The payment for the events, therefore, subsidized RNC fundraising. Without the payments to LogiCom, the Convention would have had to pay for these events.

1. The Contributions Are Illegal

First, because the Respondents did not consider the Convention Fees to be contributions under the Act, they did not appear to bar payments made by corporations or other sources prohibited under the Act. See 2 U.S.C. §§ 441b, 441c, 441e. It is likely that LogiCom received Convention Fees from prohibited sources.

Second, to the extent that the contributions were to the Convention, they are illegal, because the sum of the

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contributions and the amount of the public funding likely exceeds the expenditure limitation of a publicly-funded Convention. See 11 C.F.R. §§ 9008.4, 9008.6(a)(2).

2. The Contributions Are Excessive

Because the Convention events were designed to reward large contributors to the RNC and the Bush-Cheney campaign, it is likely that the Convention Fee contributions, when aggregated with existing contributions to the RNC, were in excess of the contribution limits. See 2 U.S.C. § 441a(a)(B).

3. The Contributions Are Unreported

Because Respondents did not properly treat the Convention Fees as contributions under the Act, the contributions have been and will continue to be unreported by both the RNC and the Convention. This is a violation of both entities' reporting obligations. See *id.* § 434(b)(4)(H); 11 C.F.R. § 9008.6(a)(3).

III. REQUESTED ACTION

As shown, the Respondents have violated the Federal Election Campaign Act. Accordingly, I request that they be

required to repay their illegal contributions and be fined
the maximum amount permitted by law.

Sincerely,



JERRY H. GOLDFEDER

Sworn to before me this
24 day of September, 2004

Phyllis K. Saxe
Notary Public

PHYLLIS K. SAXE
Notary Public, State of New York
No. 02SA6035978
Qualified in New York County
Commission Expires Jan. 10 2006

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